

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

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FEDERAL ELECTION  
COMMISSION

2014 JAN -6 AM 10: 48

In the Matter of )

DISMISSAL AND

MUR 6720 )

CASE CLOSURE UNDER THE

Christopher C. Healy )

ENFORCEMENT PRIORITY

Jerry Labriola, Jr. )

SYSTEM

Connecticut Republican State Central Committee )

Gary Schaffrick as treasurer )

CEEA

2014 JAN -6 AM 10: 52

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**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has scored MUR 6720 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.

For the reasons set forth below, the Office of General Counsel recommends that the Commission find no reason to believe that Respondent Christopher C. Healy ("Healy") violated 2 U.S.C. § 441i(d)(2). The Office of General Counsel also recommends that the Commission find no reason to believe that Jerry Labriola, Jr. ("Labriola"), the Connecticut Republican State Central Committee and Gary Schaffrick in his official capacity as treasurer<sup>1</sup> (collectively the "Committee")

<sup>1</sup> Schaffrick is presently the Committee's treasurer, but Labriola was its treasurer during the events described in the Complaint.

1 violated 2 U.S.C. § 441i(b).<sup>2</sup> In addition, the Office of General Counsel recommends that the  
2 Commission exercise its prosecutorial discretion and dismiss the potential violation concerning the  
3 reporting of disputed debts, as required by 11 C.F.R. § 116.10(a), and remind the Committee to  
4 comply with the debt reporting requirements of the Act and Commission regulations.

5 Complainant Ronald Winter ("Winter") asserts that the Committee's "leaders, past and  
6 present" may have violated the Act by allegedly establishing a "527 account used to solicit and  
7 accept funds from state sources" in order to pay "federal campaign debts." Compl. at 1.  
8 Specifically, Winter alleges that the Committee failed to pay him for unspecified work he  
9 performed for the Committee in connection with the campaign of Joseph Visconti, a 2008 candidate  
10 in Connecticut's 1st congressional district.<sup>3</sup> *Id.* According to e-mails supplied by Winter, Healy, in  
11 February 2009 the Committee's then Chairman, allegedly acknowledged the debt and promised to  
12 pay it from Healy's "reelection account (527)" (the "Healy Fund"),<sup>4</sup> which collected "donations  
13 [that] are unlimited and non-reportable." *Id.*; Compl., Attach. Winter also submits e-mails allegedly  
14 showing that an individual named Rob Simmons donated \$500 to the Healy Fund, and that the  
15 money may have been intended to help pay the Committee's debt to Winter. Compl., Attach. The  
16 Complaint includes a copy of a check in the amount of \$500 from the same donor payable to the  
17 Healy Fund. *Id.* Although the check was cashed by the Healy Fund, it bears no indication that it  
18 was intended for Winter.

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<sup>2</sup> Complaint Filed: February 6, 2013. Healy  
Response Filed: March 27, 2013. Committee Response Filed: May 7, 2013. Labriola Response Filed: May 23, 2013.

<sup>3</sup> Visconti for Congress reported a debt of \$10,224 owed to "Ron Winter D/B/A State Comm." for "campaign communications" on its 2013 October quarterly report. *See* <http://images.nictusa.com/pdf/183/13031132183/13031132183.pdf> at 8.

<sup>4</sup> The account at issue is variously referred to in the record as a "527 account," "527 organization," and "reelection account (527)." All of these names appear to refer to the "Chairman Chris Healy Fund" or "Healy Fund," an organization Healy established on May 12, 2009 under section 527 of the Internal Revenue Code. *See* Notice of 527 Status, (Form 8871), available at <http://forms.irs.gov/app/pod/basicSearch/search?execution=e1s1&pacid=29936>.

1 Healy responds that Winter did not perform any services for Healy or the Healy Fund, nor  
2 did any contract or other agreement exist between Winter and himself or the Healy Fund. Healy  
3 Resp. at 1. Asserting that Winter appears to be seeking payment for services rendered to the  
4 Visconti Committee from “another source,” Healy denies that either he or the Healy Fund were  
5 obligated to make any payments to Winter. *Id.* He further explains that the Healy Fund was a  
6 Healy Fund was a “short lived entity” with no employees or vendors, which only raised and spent  
7 about \$5,000. *Id.* at 2. Additionally, Healy states that section 527 of the Internal Revenue Code  
8 prohibited the Healy Fund from paying the debts of the Visconti campaign or the Committee. *Id.*  
9 Healy does not specifically address the e-mails appended to the Complaint, including those  
10 apparently authored by him, in which he apparently contemplates paying Winter out of the Healy  
11 Fund for services rendered to the Committee on behalf of the Visconti campaign.

12 The Committee filed a Response on behalf of itself and Chairman Labriola, in which it  
13 “unequivocally denies” the allegation that it “used[d] soft money to pay a hard money expenditure.”  
14 Committee Resp. at 1. The Committee asserts that the Complaint was filed during civil litigation  
15 between Winter and the Committee over payment for consulting work Winter allegedly performed  
16 in 2008. *Id.* at 2. After the Complaint was filed, the parties settled their dispute, with the  
17 Committee agreeing to pay Winter \$3,500. *Id.* A copy of the settlement agreement, dated March  
18 11, 2013, is attached to the Response. The Committee also states that it paid Winter with federal  
19 funds,<sup>5</sup> and that it has no knowledge regarding Healy’s use of funds in his “527 account.” *Id.*  
20 Separately, Schaffrick and Labriola submitted sworn affidavits supporting the facts contained in the  
21 Response.

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<sup>5</sup> The Committee reported a disbursement of \$3,500 to Winter for “legal settlement.” See 2013 April monthly report, available at <http://images.nictusa.com/pdf/418/13961944418/13961944418.pdf> at 15.

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1           The central issue in this matter is whether the Committee used nonfederal funds to pay for a  
2 federal election activity. Under the Act and Commission regulations, state committees of a political  
3 party, like the Committee here, generally must pay for federal election activity with funds that are  
4 subject to the Act's limitations, prohibitions, and reporting requirements. 2 U.S.C. § 441i(b).  
5 Federal election activity includes voter registration activity within 120 days before an election, and  
6 voter identification, get-out-the-vote, and generic campaign activity conducted in connection with  
7 an election in which a candidate for federal office appears on the ballot. 2 U.S.C. § 431(20)(A)(i)-  
8 (ii); 11 C.F.R. § 100.24(b). Thus, it appears that the alleged debt was for a federal election activity  
9 and that the Committee would have had to use federal funds to pay for it.

10           In addition, state committees of a political party, and officers and agents acting on its  
11 behalf, are generally prohibited from directing or soliciting donations to "527" entities. 2 U.S.C.  
12 § 441i(d)(2); 11 C.F.R. § 300.37. Therefore, Healy, as the Committee's chairman, was prohibited  
13 from directing or soliciting donations to the Healy Fund in order to pay the Committee's debt to  
14 Winter.

15           The available information suggests that the Committee, not the Healy Fund, compensated  
16 Winter, and that the Committee did so with federal funds. The Committee explains that it settled  
17 the alleged debt with Winter, and that Winter signed a release in exchange for a payment of \$3,500,  
18 which the Committee reported as being paid out of its federal account. *See* Committee Response at  
19 2; *see also* n. 5, *supra* (payment to Winter disclosed on Committee's April 2013 monthly report).  
20 In addition, it appears that the Healy Fund, which was a vehicle to raise and spend soft money  
21 donations in connection with Healy's campaign to be re-elected chairman of the Committee, made  
22 no payments to Winter. Therefore, the Office of General Counsel recommends that the

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Commission find no reason to believe that Respondents Labriola and the Committee violated 2 U.S.C. § 441i(b) or that Respondent Healy violated 2 U.S.C. § 441i(d)(2).

The record reflects that the Committee owed a debt to Winter; therefore, a related issue concerns whether the Committee properly reported the debt. Under the Commission's regulations, "[u]ntil the dispute is resolved, the political committee shall disclose on the appropriate reports . . . the amount the creditor claims is owed." 11 C.F.R. § 116.10(a). The Committee was on notice of Winter's claim dating back to February 2009 and should have reported it as a disputed debt until it was resolved.

In light of the settlement and the amount at issue, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), to dismiss the issue as to whether the Committee failed to properly report the disputed debt, and remind the Committee of the "disputed debt" reporting requirements as set forth in section 116.10(a). Finally, the Office of General Counsel recommends that the Commission approve the attached Factual and Legal Analysis and the appropriate letters, and close the file as to all Respondents.

#### **RECOMMENDATIONS**

1. Find no reason to believe that Christopher C. Healy violated 2 U.S.C. § 441i(d)(2), as alleged in the Complaint;
2. Find no reason to believe that Jerry Labriola, Jr. violated 2 U.S.C. § 441i(b), as alleged in the Complaint;
3. Find no reason to believe that Connecticut Republican State Central Committee and Gary Schaffrick in his official capacity as treasurer violated 2 U.S.C. § 441i(b), as alleged in the Complaint;
4. Dismiss the matter as to the Connecticut Republican State Central Committee and Gary Schaffrick in his official capacity as treasurer concerning a potential violation of 11 C.F.R. § 116.10(a);

5. Remind Connecticut Republican State Central Committee and Gary Schaffrick in his official capacity as treasurer to comply with the requirements of 11 C.F.R. § 116.10(a) concerning the reporting of disputed debts;
6. Approve the attached Factual and Legal Analysis and the appropriate letters; and
7. Close the file as to all Respondents.

General Counsel

1/3/14  
Date

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